

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

Regulation 1589. CONTAINERS AND LABELS.

References: Sections 6007, 6008, 6009, 6012, and 6364, Revenue and Taxation Code.

(a) DEFINITIONS. The term “containers” as used herein means the articles in or on which tangible personal property is placed for shipment and delivery such as wrapping materials, bags, cans, twines, gummed tapes, barrels, boxes, bottles, drums, carboys, cartons, sacks, pallets, and materials from which such containers are manufactured.

The term “returnable containers” as used herein means containers of a kind customarily returned or resold by the buyers of the contents for re-use by the packers, bottlers or sellers of the commodities contained therein. A container, title to which is retained by the seller of the contents, or for which a deposit is taken by such seller, is a returnable container. Examples of returnable containers are: registered dairy products containers, steel drums, certain types of beer and soft drink bottles, wine barrels, chemical carboys, and gas cylinders.

All other containers are “nonreturnable containers.” Examples of nonreturnable containers are: wrapping and packing materials, paper bags, twine, cartons, cans, medicine and distilled spirits bottles.

The term “deposit” as used herein means an amount charged to the purchaser of the contents of the container with the understanding that such amount will be repaid when the container or a similar container is delivered to the seller. The term “deposit” as used herein does not include amounts representing redemption or recycling values of beverage containers pursuant to division 12.1 (commencing with Section 14500) of the Public Resources Code whether or not such amounts are separately stated to the purchaser of the contents of the container.

(b) APPLICATION OF TAX.

(1) CONTAINERS. Tax does not apply to sales of:

(A) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(B) Nonreturnable containers when sold without the contents to persons who place food products for human consumption in the containers for subsequent sale.

(C) Returnable containers when sold with the contents in connection with a retail sale of the contents, or when resold for refilling.

(D) All containers when sold with the contents, if the sales price of the contents is not required to be included in the measure of the sales tax or the use tax.

Tax applies to all other sales of containers except sales for the purpose of resale to other sellers of containers who purchase them for resale without the contents.

Deposits as defined herein are not taxable.

(2) LABELS. Tax does not apply to sales of labels or nameplates if:

(A) The purchaser affixes them to property to be sold and sells them along with and as a part of such property, as, for example, sales of nameplates of manufacturers or producers which are permanently affixed to each unit of products sold, such as automobiles and machinery.

(B) The purchaser affixes them to nonreturnable containers of property to be sold, or to returnable containers of such property if a new label is affixed to the container each time it is refilled. Examples are sales of labels to be affixed to fruit boxes, cans, bottles and packing cases, to growers, packers, bottlers and others who place the contents in the containers.

(c) PARTICULAR APPLICATIONS.

(1) **PRICE TAGS.** Tax applies to sales of such items as price tags, shipping tags and advertising matter used in connection with the sale of property or enclosed with the property sold.

(2) **FEED ANALYSIS TAGS.** Tax does not apply to sales feed analysis tags to be attached to containers of feeds and sold along with the container and contents.

(3) **FEED BAGS.** Feed bags sold to feed dealers who place feed in the bags and sell the feed together with the bags are nonreturnable containers,¹ and the sale of such bags to feed dealers is not taxable. It is immaterial whether the bags are made of burlap, cotton, paper, or other material, or whether there is a brand name or dealer's name imprinted on the bags.

If, however, any feed dealer charges a deposit to customers to secure the return of the bags, or otherwise requires his customers to return the bags to him, the bags become returnable containers and tax applies to the sale of the bags to the feed dealer.

(4) **GIFT WRAPPING.** Tax applies to the entire charge for "gift wrapping", (i.e., furnishing the materials and labor required to wrap an item for a customer so as to be suitable for use by him as a gift), whether or not the person who does the gift wrapping is the seller of the contents. If the person who does the gift wrapping is the seller of the contents, the gift wrapping is considered sold together with the contents, whether or not a separate charge is made for the gift wrapping. The person who does the gift wrapping may purchase the materials free of tax for resale.

However, tax does not apply to charges for gift wrapping exempt food products sold by the person who does the gift wrapping, unless the value of the gift wrapping exceeds the value of the food products.

History: Effective August 1, 1933.

Adopted January 1, 1945, as a restatement of previous rulings.

Amended and renumbered August 5, 1969, effective September 6, 1969.

Amended May 21, 1975, effective June 29, 1975.

Amended October 7, 1987, effective December 30, 1987. In subdivision (a), expanded the definition of the term "deposit" to exclude redemption or recycling values of beverage containers in order to prevent any confusion which may arise when the California Beverage Container Recycling and Litter Reduction Act becomes effective. Because redemption or recycling values of beverage containers are not considered deposits, they therefore are includable in the gross receipts of the seller of the containers.

Amended April 23, 1996, effective August 8, 1996. New subdivision (b)(1)(B) added; existing subdivisions (b)(1)(B) & (C) redesignated (b)(1)(C) & (D), respectively. Obsolete effective date deleted from subdivision (c)(4).

¹The conclusion that feed bags are nonreturnable containers resulted from a statewide survey made by the board with the cooperation of the California Grain and Feed Association, which showed that substantially less than 50 percent of the feed bags are returned to the feed dealers by their customers for re-use.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.